



CERTIFICATE OF MAIL

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on **February 9, 2004**.

Grace Alicea

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Date: February 9, 2004

Shudong WU, et al.

**FEB 24 2004**

Confirmation No: 8076

Serial No.: 10/074,303

Group Art Unit: 2872

Filed: February 11, 2002

Examiner: Craig CURTIS

For: MULTI-FUNCTIONAL OPTICAL DEVICE UTILIZING MULTIPLE  
POLARIZATION BEAM SPLITTERS AND NON-LINEAR  
INTERFEROMETERS

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER TO A OBVIATE DOUBLE  
PATENTING REJECTION 37 C.F.R. 1.321(c)**

Sir:

The undersigned Attorney of Record, appointed by the Assignee Avanex Corporation, of the entire right, title and interest in and to the above-identified application by virtue of an assignment recorded in the United States Patent and Trademark Office on February 11, 2002, under Reel/Frame 012612/0070, submits herewith a Terminal Disclaimer under 37 C.F.R.

1.321(c).

02/18/2004 HALI11 00000063 10074303

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110.00 OP

**DISCLAIMER**

The owner, Avanex Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of claims 1-4, 10, 11, 17, 22, 23, 28, 29, and 32-39 of allowed U.S. Patent Application No. 09/630,891, which has not yet been assigned a U.S. patent number; claims 1-4 of U.S. Patent No. 6,130,971; claims 1-17 of U.S. Patent No. 6,215,926; claims 1-28 of U.S. Patent No. 6,263,129; and claims 1-26 of U.S. Patent No. 6,310,690, the term being defined in 35 U.S.C. 154 to 156 and 173, as shortened by any terminal disclaimer filed prior to the grant of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned Attorney of Record believes this application is in condition for allowance. If any unresolved issues remain, please contact Applicant's attorney at the telephone number indicated below.

Respectfully submitted,

SAWYER LAW GROUP LLP

February 9, 2004

Date

A handwritten signature in black ink, appearing to read 'Michele Liu', is written over a horizontal line.

Michele Liu

Attorney for Applicant(s)

Reg. No. 44,875

(650) 493-4540